

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 288

FINAL READING

Introduced by Health and Human Services Committee: Gay, 14, Chairperson; Campbell, 25; Gloor, 35; Howard, 9; Pankonin, 2; Stuthman, 22; Wallman, 30.

Read first time January 15, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health and human services; to amend sections
2 32-310, 38-2893, 38-2894, 42-358.02, 42-364, 42-369,
3 43-512, 43-512.03, 43-512.07, 43-512.12, 43-512.15,
4 43-512.16, 43-512.17, 48-2302, 68-1017.01, 71-531,
5 77-27,166, 81-2270, 81-2271, 81-3119, 83-1209, 83-1211,
6 83-1213, 83-1217, 83-1217.02, and 85-2104, Reissue
7 Revised Statutes of Nebraska, and sections 44-3,144,
8 48-647, 68-717, 68-901, 68-906, 68-908, 68-934, 68-940,
9 68-948, 68-1016, 68-1017, 68-1017.02, 68-1070, 68-1713,
10 71-401, 71-604.05, and 71-5309, Revised Statutes
11 Cumulative Supplement, 2008; to define and redefine
12 terms; to change references to the federal food stamp

1 program; to change provisions relating to support
2 orders and collection of past-due payments, interest,
3 assignment, setoff, medical support, and health care
4 coverage for dependent children; to change a date within
5 the Medical Assistance Act relating to acceptance of
6 federal provisions; to eliminate references to a pilot
7 project; to change provisions relating to pharmacy
8 technicians, a registry, the medical assistance program,
9 false medicaid claims, the Medicaid Reform Council,
10 consent to human immunodeficiency virus infection
11 testing, public water system operator licensing, and the
12 Developmental Disabilities Services Act; to create a
13 fund; to provide for and eliminate provisions relating
14 to itemized billing statements by health care facilities;
15 to provide for a transfer of funds; to provide for
16 relabeling and redispensing drugs at correctional
17 facilities and jails; to harmonize provisions; to provide
18 operative dates; to repeal the original sections; to
19 outright repeal sections 71-2049, 81-2265, and 81-2267,
20 Reissue Revised Statutes of Nebraska; and to declare an
21 emergency.

22 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-310, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-310 (1) The State Department of Education and
4 the Department of Health and Human Services shall provide the
5 opportunity to register to vote at the time of application,
6 review, or change of address for the following programs, as
7 applicable: (a) The ~~feed stamp program~~; Supplemental Nutrition
8 Assistance Program; (b) the medicaid program; (c) the WIC program
9 as defined in section 71-2225; (d) the aid to dependent children
10 program; (e) the vocational rehabilitation program; and (f) any
11 other public assistance program or program primarily for the
12 purpose of providing services to persons with disabilities. If the
13 application, review, or change of address is accomplished through
14 an agent or contractor of the department, the agent or contractor
15 shall provide the opportunity to register to vote. Any information
16 on whether an applicant registers or declines to register and the
17 agency at which he or she registers shall be confidential and shall
18 only be used for voter registration purposes.

19 (2) The department, agent, or contractor shall make
20 the mail-in registration application described in section 32-320
21 available at the time of application, review, or change of address
22 and shall provide assistance, if necessary, to the applicant in
23 completing the application to register to vote. The department
24 shall retain records indicating whether an applicant accepted or
25 declined the opportunity to register to vote.

1 (3) Department personnel, agents, and contractors
2 involved in the voter registration process pursuant to this section
3 shall not be considered deputy registrars or agents or employees of
4 the election commissioner or county clerk.

5 (4) The applicant may return the completed voter
6 registration application to the department, agent, or contractor
7 or may personally mail or deliver the application to the election
8 commissioner or county clerk as provided in section 32-321. If
9 the applicant returns the completed application to the department,
10 agent, or contractor, the department, agent, or contractor shall
11 deliver the application to the election commissioner or county
12 clerk of the county in which the office of the department, agent,
13 or contractor is located not later than ten days after receipt
14 by the department, agent, or contractor, except that if the
15 application is returned to the department, agent, or contractor
16 within five days prior to the third Friday preceding any election,
17 it shall be delivered not later than five days after the date it
18 is returned. The election commissioner or county clerk shall, if
19 necessary, forward the application to the election commissioner or
20 county clerk of the county in which the applicant resides within
21 such prescribed time limits. The application shall be completed
22 and returned to the department, agency, or contractor by the close
23 of business on the third Friday preceding any election to be
24 registered to vote at such election. A registration application
25 received after the deadline shall not be processed by the election

1 commissioner or county clerk until after the election.

2 (5) The departments shall adopt and promulgate rules and
3 regulations to ensure compliance with this section.

4 Sec. 2. Section 38-2893, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 38-2893 (1) The Pharmacy Technician Registry is created.
7 The department shall list each pharmacy technician registration in
8 the registry. A listing in the registry shall be valid for the term
9 of the registration and upon renewal unless such listing is refused
10 renewal or is removed as provided in section 38-2894.

11 (2) The registry shall contain the following information
12 on each individual who meets the conditions set out in section
13 38-2890: (a) The individual's full name; (b) information necessary
14 to identify the individual; ~~(e) any conviction of a nonalcohol,~~
15 ~~drug-related felony or misdemeanor reported to the department; and~~
16 ~~(d) and (c)~~ and (c) any other information as the department may require by
17 rule and regulation.

18 Sec. 3. Section 38-2894, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 38-2894 (1) A registration to practice as a pharmacy
21 technician may be denied, refused renewal, removed, or suspended
22 or have other disciplinary measures taken against it by the
23 department, with the recommendation of the board, for failure to
24 meet the requirements of or for violation of any of the provisions
25 of subdivisions (1) through (17) and (19) through (24) of section

1 38-178 and sections 38-2890 to 38-2897 or the rules and regulations
2 adopted under such sections.

3 (2) If the department proposes to deny, refuse renewal
4 of, or remove or suspend a registration, it shall send the
5 applicant or registrant a notice setting forth the action to be
6 taken and the reasons for the determination. The denial, refusal to
7 renew, removal, or suspension shall become final thirty days after
8 mailing the notice unless the applicant or registrant gives written
9 notice to the department of his or her desire for an informal
10 conference or for a formal hearing.

11 (3) Notice may be served by any method specified in
12 section 25-505.01, or the department may permit substitute or
13 constructive service as provided in section 25-517.02 when service
14 cannot be made with reasonable diligence by any of the methods
15 specified in section 25-505.01.

16 (4) Pharmacy technicians may participate in the Licensee
17 Assistance Program described in section 38-175.

18 Sec. 4. Section 42-358.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 42-358.02 (1) All delinquent child support payments,
21 spousal support payments, and medical support payments shall draw
22 interest at the rate specified in section 45-103 in effect on the
23 date of the most recent order or decree. Such interest shall be
24 computed as simple interest.

25 (2) All child support payments, spousal support payments,

1 and medical support payments shall become delinquent the day after
2 they are due and owing, except that no obligor whose ~~child~~ support
3 payments are automatically withheld from his or her paycheck shall
4 be regarded or reported as being delinquent or in arrears if
5 (a) any delinquency or arrearage is solely caused by a disparity
6 between the schedule of the obligor's regular pay dates and the
7 scheduled date the ~~child~~ support payment is due, (b) the total
8 amount of ~~child~~ support payments to be withheld from the paychecks
9 of the obligor and the amount ordered by the support order are the
10 same on an annual basis, and (c) the automatic deductions for ~~child~~
11 support payments are continuous and occurring. Interest shall not
12 accrue until thirty days after such payments are delinquent.

13 (3) The court shall order the determination of the amount
14 of interest due, and such interest shall be payable in the same
15 manner as the support payments upon which the interest accrues
16 subject to subsection (2) of this section or unless it is waived
17 by agreement of the parties. The Title IV-D Division of the
18 Department of Health and Human Services shall compute interest and
19 identify delinquencies pursuant to this section on the payments
20 received by the State Disbursement Unit pursuant to section 42-369.
21 The Title IV-D Division shall provide the case information in
22 electronic format, and upon request in print format, to the judge
23 presiding over domestic relations cases and to the county attorney
24 or authorized attorney.

25 (4) Support order payments shall be credited in the

1 following manner:

2 (a) First, to the payments due for the current month in
3 the following order: Child support payments, then spousal support
4 payments, and lastly medical support payments;

5 (b) Second, toward any payment arrearage owing, in the
6 following order: Child support payment arrearage, then spousal
7 support payment arrearage, and lastly medical support payment
8 arrearage; and

9 (c) Third, toward the interest on any payment arrearage,
10 in the following order: Child support payment arrearage interest,
11 then spousal support payment arrearage interest, and lastly medical
12 support payment arrearage interest.

13 (5) Interest which may have accrued prior to September 6,
14 1991, shall not be affected or altered by changes to this section
15 which take effect on such date. All delinquent ~~child~~ support
16 order payments and all decrees entered prior to such date shall
17 draw interest at the effective rate as prescribed by this section
18 commencing as of such date.

19 Sec. 5. Section 42-364, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 42-364 (1) In an action under Chapter 42 involving
22 child support, child custody, parenting time, visitation, or other
23 access, the parties and their counsel, if represented, shall
24 develop a parenting plan as provided in the Parenting Act. If
25 the parties and counsel do not develop a parenting plan, the

1 complaint shall so indicate as provided in section 42-353 and
2 before July 1, 2010, the case may be referred to mediation,
3 specialized alternative dispute resolution, or other alternative
4 dispute resolution process and on or after such date the case
5 shall be referred to mediation or specialized alternative dispute
6 resolution as provided in the Parenting Act. The decree in an
7 action involving the custody of a minor child shall include the
8 determination of legal custody and physical custody based upon the
9 best interests of the child, as defined in the Parenting Act, and
10 child support. Such determinations shall be made by incorporation
11 into the decree of (a) a parenting plan developed by the parties,
12 if approved by the court, or (b) a parenting plan developed by the
13 court based upon evidence produced after a hearing in open court if
14 no parenting plan is developed by the parties or the plan developed
15 by the parties is not approved by the court. The decree shall
16 conform to the Parenting Act. The social security number of each
17 parent and the minor child shall be furnished to the clerk of the
18 district court but shall not be disclosed or considered a public
19 record.

20 (2) In determining legal custody or physical custody,
21 the court shall not give preference to either parent based on the
22 sex of the parent and, except as provided in section 43-2933, no
23 presumption shall exist that either parent is more fit or suitable
24 than the other. Custody shall be determined on the basis of the
25 best interests of the child, as defined in the Parenting Act.

1 Unless parental rights are terminated, both parents shall continue
2 to have the rights stated in section 42-381.

3 (3) Custody of a minor child may be placed with both
4 parents on a joint legal custody or joint physical custody basis,
5 or both, (a) when both parents agree to such an arrangement in the
6 parenting plan and the court determines that such an arrangement is
7 in the best interests of the child or (b) if the court specifically
8 finds, after a hearing in open court, that joint physical custody
9 or joint legal custody, or both, is in the best interests of the
10 minor child regardless of any parental agreement or consent.

11 (4) In determining the amount of child support to be
12 paid by a parent, the court shall consider the earning capacity
13 of each parent and the guidelines provided by the Supreme Court
14 pursuant to section 42-364.16 for the establishment of child
15 support obligations. Upon application, hearing, and presentation of
16 evidence of an abusive disregard of the use of child support money
17 or cash medical support paid by one party to the other, the court
18 may require the party receiving such payment to file a verified
19 report with the court, as often as the court requires, stating the
20 manner in which ~~such~~ child support money or cash medical support
21 is used. Child support money or cash medical support paid to the
22 party having custody of the minor child shall be the property of
23 such party except as provided in section 43-512.07. The clerk of
24 the district court shall maintain a record, separate from all other
25 judgment dockets, of all decrees and orders in which the payment

1 of child support, cash medical support, or spousal support has
2 been ordered, whether ordered by a district court, county court,
3 separate juvenile court, or county court sitting as a juvenile
4 court. Orders for child support or cash medical support in cases
5 in which a party has applied for services under Title IV-D of
6 the federal Social Security Act, as amended, shall be reviewed as
7 provided in sections 43-512.12 to 43-512.18.

8 (5) Whenever termination of parental rights is placed in
9 issue:

10 (a) The court shall transfer jurisdiction to a juvenile
11 court established pursuant to the Nebraska Juvenile Code unless
12 a showing is made that the county court or district court
13 is a more appropriate forum. In making such determination, the
14 court may consider such factors as cost to the parties, undue
15 delay, congestion of dockets, and relative resources available for
16 investigative and supervisory assistance. A determination that the
17 county court or district court is a more appropriate forum shall
18 not be a final order for the purpose of enabling an appeal. If
19 no such transfer is made, the court shall appoint an attorney as
20 guardian ad litem to protect the interests of any minor child.
21 The court may terminate the parental rights of one or both parents
22 after notice and hearing when the court finds such action to be in
23 the best interests of the minor child, as defined in the Parenting
24 Act, and it appears by the evidence that one or more of the grounds
25 for termination of parental rights stated in section 43-292 exist;

1 and

2 (b) The court shall inform a parent who does not have
3 legal counsel of the parent's right to retain counsel and of
4 the parent's right to retain legal counsel at county expense if
5 such parent is unable to afford legal counsel. If such parent
6 is unable to afford legal counsel and requests the court to
7 appoint legal counsel, the court shall immediately appoint an
8 attorney to represent the parent in the termination proceedings.
9 The court shall order the county to pay the attorney's fees and
10 all reasonable expenses incurred by the attorney in protecting the
11 rights of the parent. At such hearing, the guardian ad litem shall
12 take all action necessary to protect the interests of the minor
13 child. The court shall fix the fees and expenses of the guardian ad
14 litem and tax the same as costs but may order the county to pay on
15 finding the responsible party indigent and unable to pay.

16 (6) Modification proceedings relating to support,
17 custody, parenting time, visitation, other access, or removal of
18 children from the jurisdiction of the court shall be commenced
19 by filing a complaint to modify. Modification of a parenting
20 plan is governed by the Parenting Act. Proceedings to modify a
21 parenting plan shall be commenced by filing a complaint to modify.
22 Such actions may be referred to mediation, specialized alternative
23 dispute resolution, or other alternative dispute resolution process
24 before July 1, 2010, and on and after such date shall be referred
25 to mediation or specialized alternative dispute resolution as

1 provided in the Parenting Act. Service of process and other
2 procedure shall comply with the requirements for a dissolution
3 action.

4 (7) In any proceeding under this section relating to
5 custody of a child of school age, certified copies of school
6 records relating to attendance and academic progress of such child
7 are admissible in evidence.

8 Sec. 6. Section 42-369, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 42-369 (1) All orders, decrees, or judgments for
11 temporary or permanent support payments, including child, spousal,
12 or medical support, and all orders, decrees, or judgments for
13 alimony or modification of support payments or alimony shall direct
14 the payment of such sums to be made commencing on the first day
15 of each month for the use of the persons for whom the support
16 payments or alimony have been awarded. Such payments shall be made
17 to the clerk of the district court (a) when the order, decree, or
18 judgment is for spousal support, alimony, or maintenance support
19 and the order, decree, or judgment does not also provide for
20 child support, and (b) when the payment constitutes child care
21 or day care expenses, unless payments under subdivision (1)(a) or
22 (1)(b) of this section are ordered to be made directly to the
23 obligee. All other support order payments shall be made to the
24 State Disbursement Unit. In all cases in which income withholding
25 has been implemented pursuant to the Income Withholding for Child

1 Support Act or sections 42-364.01 to 42-364.14, support order
2 payments shall be made to the State Disbursement Unit. The court
3 may order such payment to be in cash or guaranteed funds.

4 ~~(2)~~ (2)(a) If the ~~person~~ party against whom an order,
5 decree, or judgment for child support is entered or the custodial
6 ~~parent or guardian~~ party has health insurance available to him
7 or her through an employer, ~~or~~ organization, or other health
8 insurance entity which may extend to cover any children affected
9 by the order, decree, or judgment and the health care coverage
10 is accessible to the children and is available to the responsible
11 party at reasonable cost, the court shall require health care
12 coverage to be provided. Health care coverage is accessible if
13 the covered children can obtain services from a plan provider with
14 reasonable effort by the custodial party. When the administrative
15 agency, court, or other tribunal determines that the only health
16 care coverage option available through the noncustodial party
17 is a plan that limits service coverage to providers within a
18 defined geographic area, the administrative agency, court, or
19 other tribunal shall determine whether the child lives within the
20 plan's service area. If the child does not live within the plan's
21 service area, the administrative agency, court, or other tribunal
22 shall determine whether the plan has a reciprocal agreement that
23 permits the child to receive coverage at no greater cost than if
24 the child resided in the plan's service area. The administrative
25 agency, court, or other tribunal shall also determine if primary

1 care is available within thirty minutes or thirty miles of the
2 child's residence. For the purpose of determining the accessibility
3 of health care coverage, the administrative agency, court, or
4 other tribunal may determine and include in an order that longer
5 travel times are permissible if residents, in part or all of the
6 service area, customarily travel distances farther than thirty
7 minutes or thirty miles. If primary care services are not
8 available within these constraints, the health care coverage is
9 presumed inaccessible. If health care coverage is not available
10 or is inaccessible and one or more of the parties are receiving
11 Title IV-D services, then cash medical support shall be ordered.
12 Cash medical support or the cost of private health insurance is
13 considered reasonable in cost if the cost to the party responsible
14 for providing medical support does not exceed three percent of his
15 or her gross income. In applying the three-percent standard, the
16 cost is the cost of adding the children to existing health care
17 coverage or the difference between self-only and family health care
18 coverage. Cash medical support payments shall not be ordered if,
19 at the time that the order is issued or modified, the responsible
20 party's income is or such expense would reduce the responsible
21 party's net income below the basic subsistence limitation provided
22 in Nebraska Court Rule section 4-218. If such rule does not
23 describe a basic subsistence limitation, the responsible party's
24 net income shall not be reduced below nine hundred three dollars
25 net monthly income for one person or below the poverty guidelines

1 updated annually in the Federal Register by the United States
2 Department of Health and Human Services under the authority of 42
3 U.S.C. 9902(2). the court shall require the option to be exercised
4 ~~or comparable coverage be obtained by either party for additional~~
5 ~~coverage which favors the best interests of the child or children~~
6 ~~affected unless the parties have otherwise stipulated in writing or~~
7 ~~to the court.~~

8 (b) For purposes of this section:

9 (i) Health care coverage has the same meaning as in
10 section 44-3,144; and

11 (ii) Cash medical support means an amount ordered to be
12 paid toward the cost of health insurance provided by a public
13 entity or by another parent through employment or otherwise or for
14 other medical costs not covered by insurance.

15 (3) Such an A support order, decree, or judgment ~~for~~
16 ~~support~~ may include the providing of necessary shelter, food,
17 clothing, care, medical support as defined in section 43-512,
18 medical attention, expenses of confinement, education expenses,
19 funeral expenses, and any other expense the court may deem
20 reasonable and necessary.

21 (4) Orders, decrees, and judgments for temporary or
22 permanent support or alimony shall be filed with the clerk of the
23 district court and have the force and effect of judgments when
24 entered. The clerk and the State Disbursement Unit shall disburse
25 all payments received as directed by the court and as provided

1 in sections 42-358.02 and 43-512.07. Records shall be kept of all
2 funds received and disbursed by the clerk and the unit and shall be
3 open to inspection by the parties and their attorneys.

4 (5) Unless otherwise specified by the court, an equal and
5 proportionate share of any child support awarded shall be presumed
6 to be payable on behalf of each child subject to the order, decree,
7 or judgment for purposes of an assignment under section 43-512.07.

8 Sec. 7. Section 43-512, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-512 (1) Any dependent child as defined in section
11 43-504 or any relative or eligible caretaker of such a dependent
12 child may file with the Department of Health and Human Services
13 a written application for financial assistance for such child on
14 forms furnished by the department.

15 (2) The department, through its agents and employees,
16 shall make such investigation pursuant to the application as it
17 deems necessary or as may be required by the county attorney
18 or authorized attorney. If the investigation or the application
19 for financial assistance discloses that such child has a parent
20 or stepparent who is able to contribute to the support of such
21 child and has failed to do so, a copy of the finding of such
22 investigation and a copy of the application shall immediately be
23 filed with the county attorney or authorized attorney.

24 (3) The department shall make a finding as to whether the
25 application referred to in subsection (1) of this section should

1 be allowed or denied. If the department finds that the application
2 should be allowed, the department shall further find the amount
3 of monthly assistance which should be paid with reference to such
4 dependent child. Except as may be otherwise provided, payments
5 shall be made by state warrant, and the amount of payments shall
6 not exceed three hundred dollars per month when there is but
7 one dependent child and one eligible caretaker in any home, plus
8 an additional seventy-five dollars per month on behalf of each
9 additional eligible person. No payments shall be made for amounts
10 totaling less than ten dollars per month except in the recovery of
11 overpayments.

12 (4) The amount which shall be paid as assistance with
13 respect to a dependent child shall be based in each case upon the
14 conditions disclosed by the investigation made by the department.
15 An appeal shall lie from the finding made in each case to the
16 chief executive officer of the department or his or her designated
17 representative. Such appeal may be taken by any taxpayer or by any
18 relative of such child. Proceedings for and upon appeal shall be
19 conducted in the same manner as provided for in section 68-1016.

20 (5)(a) For the purpose of preventing dependency, the
21 department shall adopt and promulgate rules and regulations
22 providing for services to former and potential recipients of aid to
23 dependent children and medical assistance benefits. The department
24 shall adopt and promulgate rules and regulations establishing
25 programs and cooperating with programs of work incentive, work

1 experience, job training, and education. The provisions of this
2 section with regard to determination of need, amount of payment,
3 maximum payment, and method of payment shall not be applicable to
4 families or children included in such programs.

5 (b) If a recipient of aid to dependent children becomes
6 ineligible for aid to dependent children as a result of increased
7 hours of employment or increased income from employment after
8 having participated in any of the programs established pursuant to
9 subdivision (a) of this subsection, the recipient may be eligible
10 for the following benefits, as provided in rules and regulations of
11 the department in accordance with sections 402, 417, and 1925 of
12 the federal Social Security Act, as amended, Public Law 100-485,
13 in order to help the family during the transition from public
14 assistance to independence:

15 (i) An ongoing transitional payment that is intended to
16 meet the family's ongoing basic needs which may include food,
17 clothing, shelter, utilities, household goods, personal care items,
18 and general incidental expenses during the five months following
19 the time the family becomes ineligible for assistance under the aid
20 to dependent children program, if the family's earned income is at
21 or below one hundred eighty-five percent of the federal poverty
22 level at the time the family becomes ineligible for the aid to
23 dependent children program. Payments shall be made in five monthly
24 payments, each equal to one-fifth of the aid to dependent children
25 payment standard for the family's size at the time the family

1 becomes ineligible for the aid to dependent children program. If
2 during the five-month period, (A) the family's earnings exceed one
3 hundred eighty-five percent of the federal poverty level, (B) the
4 family members are no longer working, (C) the family ceases to
5 be Nebraska residents, (D) there is no longer a minor child in
6 the family's household, or (E) the family again becomes eligible
7 for the aid to dependent children program, the family shall become
8 ineligible for any remaining transitional benefits under this
9 subdivision;

10 (ii) Child care as provided in subdivision (1)(c) of
11 section 68-1724; and

12 (iii) Except as may be provided in accordance with
13 subsection (2) of section 68-1713 and subdivision (1)(c) of section
14 68-1724, medical assistance for up to twelve months after the month
15 the recipient becomes employed and is no longer eligible for aid to
16 dependent children.

17 (6) For purposes of sections 43-512 ~~to 43-512.10 and~~
18 ~~43-512.12~~ to 43-512.18:

19 (a) Authorized attorney shall mean an attorney, employed
20 by the county subject to the approval of the county board, employed
21 by the department, or appointed by the court, who is authorized
22 to investigate and prosecute child, spousal, and medical support
23 cases. An authorized attorney shall represent the state as provided
24 in section 43-512.03;

25 (b) Child support shall be defined as provided in section

1 43-1705;

2 (c) Medical support shall include all expenses associated
3 with the birth of a child, cash medical support as defined
4 in section 42-369, health care coverage as defined in section
5 44-3,144, and, if required pursuant to section 42-369 or 43-290,
6 and medical and hospital insurance coverage or membership in a
7 health maintenance organization or preferred provider organization;

8 (d) Spousal support shall be defined as provided in
9 section 43-1715;

10 (e) State Disbursement Unit shall be defined as provided
11 in section 43-3341; and

12 (f) Support shall be defined as provided in section
13 43-3313.

14 Sec. 8. Section 43-512.03, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-512.03 (1) The county attorney or authorized attorney
17 shall:

18 (a) On request by the Department of Health and Human
19 Services as described in subsection (2) of this section or when
20 the investigation or application filed under section 43-512 or
21 43-512.02 justifies, file a complaint against a nonsupporting
22 ~~parent or stepparent~~ party in the district, county, or separate
23 juvenile court praying for an order for child or medical support
24 in cases when there is no existing child or medical support order.
25 After notice and hearing, the court shall adjudicate the child and

1 medical support liability of ~~the nonsupporting parent or stepparent~~
2 either party and enter an order accordingly;

3 (b) Enforce child, spousal, and medical support orders by
4 an action for income withholding pursuant to the Income Withholding
5 for Child Support Act;

6 (c) In addition to income withholding, enforce child,
7 spousal, and medical support orders by other civil actions or
8 administrative actions, citing the defendant for contempt, or
9 filing a criminal complaint;

10 (d) Establish paternity and collect child and medical
11 support on behalf of children born out of wedlock; and

12 (e) Carry out sections 43-512.12 to 43-512.18.

13 (2) The department may periodically review cases of
14 individuals receiving enforcement services and make referrals to
15 the county attorney or authorized attorney.

16 (3) In any action brought by or intervened in by a
17 county attorney or authorized attorney under the Income Withholding
18 for Child Support Act, the License Suspension Act, the Uniform
19 Interstate Family Support Act, or sections 42-347 to 42-381,
20 43-290, 43-512 ~~to~~ 43-512.10, 43-512.12 to 43-512.18, 43-1401 to
21 43-1418, and 43-3328 to 43-3339, such attorneys shall represent the
22 State of Nebraska.

23 (4) The State of Nebraska shall be a real party in
24 interest in any action brought by or intervened in by a county
25 attorney or authorized attorney for the purpose of establishing

1 paternity or securing, modifying, suspending, or terminating child
 2 or medical support or in any action brought by or intervened in by
 3 a county attorney or authorized attorney to enforce an order for
 4 child, spousal, or medical support.

5 (5) Nothing in this section shall be construed to
 6 interpret representation by a county attorney or an authorized
 7 attorney as creating an attorney-client relationship between the
 8 county attorney or authorized attorney and any party or witness to
 9 the action, other than the State of Nebraska, regardless of the
 10 name in which the action is brought.

11 Sec. 9. Section 43-512.07, Reissue Revised Statutes of
 12 Nebraska, is amended to read:

13 43-512.07 (1) Any action, payment, aid, or assistance
 14 listed in ~~subdivisions (a) through (e)~~ of this subsection shall
 15 constitute an assignment by operation of law to the Department
 16 of Health and Human Services of any right to spousal or medical
 17 support, when ordered by the court, and to child support, whether
 18 or not ordered by the court, which a ~~recipient~~ person may have in
 19 his or her own behalf or on behalf of any other person for whom ~~an~~
 20 ~~applicant~~ such person receives such payments, aid, or assistance;
 21 ~~including any accrued arrearages as of the time of the assignment.~~

22 (a) Application for and acceptance of one or more aid to
 23 dependent children payments by a parent, another relative, or a
 24 custodian;

25 (b) Receipt of aid by or on behalf of any dependent child

1 as defined in section 43-504; or

2 (c) Receipt of aid from child welfare funds.

3 The assignment under this section is the right to support
4 payments that become due while the person is receiving payments,
5 aid, or assistance listed in this subsection. The department shall
6 be entitled to retain such child, spousal, or other support up to
7 the amount of payments, aid, or assistance provided to a recipient.
8 For purposes of this section, the right to receive ~~current and~~
9 ~~past-due~~ child support shall belong to the child and the assignment
10 shall be effective as to any such support even if the recipient of
11 the payments, aid, or assistance is not the same as the payee of
12 court-ordered support.

13 (2) After notification of the State Disbursement Unit
14 receiving the child, spousal, or other support payments made
15 pursuant to a court order that the person for whom such support
16 is ordered is a recipient of payments, aid, or assistance listed
17 in subsection (1) of this section, the department shall also give
18 notice to the payee named in the court order at his or her
19 last-known address.

20 (3) Upon written or other notification from the
21 department or from another state of such assignment of child,
22 spousal, or other support payments, the State Disbursement Unit
23 shall transmit the support payments received to the department
24 or the other state without the requirement of a subsequent order
25 by the court. The State Disbursement Unit shall continue to

1 transmit the support payments for as long as the payments, aid, or
2 assistance listed in subsection (1) of this section continues.

3 (4) Any court-ordered child, spousal, or other support
4 remaining unpaid ~~during the period of the assignment~~ for the months
5 during which such payments, aid, or assistance was made shall
6 constitute a debt and a continuing assignment at the termination
7 of payments, aid, or assistance listed in subsection (1) of
8 this section, collectible by the department or other state as
9 reimbursement for such payments, aid, or assistance. ~~However,~~ any
10 assignment pursuant to subdivisions ~~(1)(b) and (1)(c)~~ of this
11 section shall be limited to the amount of child support due for
12 any months during which such payments, ~~aid,~~ or assistance was made.
13 The continuing assignment shall only apply to support payments
14 made during a calendar period which exceed the specific amount of
15 support ordered for that period. When payments, aid, or assistance
16 listed in subsection (1) of this section have ceased and upon
17 notice by the department or the other state, the State Disbursement
18 Unit shall continue to transmit to the department or the other
19 state any support payments received ~~on arrearages~~ in excess of the
20 amount of support ordered for that specific calendar period until
21 notified by the department or the other state that the debt has
22 been paid in full, ~~except that any amount of support arrearages~~
23 ~~that has accrued or accrues after termination of payments, aid, or~~
24 ~~assistance listed in subsection (1) of this section shall be paid~~
25 ~~first by the unit to the person to whom support is due before any~~

1 ~~reimbursement is made to the department or the other state.~~

2 Sec. 10. Section 43-512.12, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-512.12 Child support orders in cases in which a party
5 has applied for services under Title IV-D of the federal Social
6 Security Act, as amended, shall be reviewed by the Department of
7 Health and Human Services to determine whether to refer such orders
8 to the county attorney or authorized attorney for filing of an
9 application for modification. An order shall be reviewed by the
10 department upon its own initiative or at the request of either
11 parent when such review is required by Title IV-D of the federal
12 Social Security Act, as amended. After review the department shall
13 refer an order to a county attorney or authorized attorney when
14 the verifiable financial information available to the department
15 indicates:

16 (1) The present child support obligation varies from
17 the Supreme Court child support guidelines pursuant to section
18 42-364.16 by more than the percentage, amount, or other criteria
19 established by Supreme Court rule, and the variation is due to
20 financial circumstances which have lasted at least three months and
21 can reasonably be expected to last for an additional six months; or

22 (2) Health insurance care coverage meeting the
23 requirements of subsection (2) of section 42-369 is available to
24 ~~the obligor as provided in subsection (2) of section 42-369~~ either
25 party and the children are not covered by health insurance do not

1 have health care coverage other than the medical assistance program
2 under the Medical Assistance Act.

3 An order shall not be reviewed by the department if
4 it has not been three years since the present child support
5 obligation was ordered. An order shall not be reviewed by the
6 department more than once every three years unless the requesting
7 party demonstrates a substantial change in circumstances, and
8 an order may be reviewed after one year if the department's
9 determination after the previous review was not to refer to the
10 county attorney or authorized attorney for filing of an application
11 for modification because financial circumstances had not lasted
12 or were not expected to last for the time periods established by
13 subdivision (1) of this section.

14 Sec. 11. Section 43-512.15, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-512.15 (1) The county attorney or authorized attorney,
17 upon referral from the Department of Health and Human Services,
18 shall file a complaint to modify a child support order unless the
19 attorney determines in the exercise of independent professional
20 judgment that:

21 (a) The variation from the Supreme Court child support
22 guidelines pursuant to section 42-364.16 is based on material
23 misrepresentation of fact concerning any financial information
24 submitted to the attorney;

25 (b) The variation from the guidelines is due to a

1 voluntary reduction in net monthly income. For purposes of this
2 section, a person who has been incarcerated for a period of one
3 year or more in a county or city jail or a federal or state
4 correctional facility shall be considered to have an involuntary
5 reduction of income unless (i) the incarceration is a result of
6 a conviction for criminal nonsupport pursuant to section 28-706
7 or a conviction for a violation of any federal law or law of
8 another state substantially similar to section 28-706, ~~or~~ (ii)
9 the incarcerated individual has a documented record of willfully
10 failing or neglecting to provide proper support which he or
11 she knew or reasonably should have known he or she was legally
12 obligated to provide when he or she had sufficient resources to
13 provide such support, or (iii) the incarceration is a result of a
14 conviction for a crime in which the child who is the subject of the
15 child support order was victimized; or

16 (c) When the amount of the order is considered with all
17 the other undisputed facts in the case, no variation from the
18 criteria set forth in subdivisions (1) and (2) of section 43-512.12
19 exists.

20 (2) The department, a county attorney, or an authorized
21 attorney shall not in any case be responsible for reviewing or
22 filing an application to modify child support for individuals
23 incarcerated as described in subdivision (1)(b) of this section.

24 (3) The proceedings to modify a child support order shall
25 comply with section 42-364, and the county attorney or authorized

1 attorney shall represent the state in the proceedings.

2 (4) After a complaint to modify a child support order is
3 filed, any party may choose to be represented personally by private
4 counsel. Any party who retains private counsel shall so notify the
5 county attorney or authorized attorney in writing.

6 Sec. 12. Section 43-512.16, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-512.16 The county attorney or authorized attorney
9 shall review the health ~~insurance~~ care coverage provisions
10 contained in any child support order which is subject to review
11 under section 43-512.12 and shall include in any application for
12 modification a request that the court order health ~~insurance~~ care
13 coverage or cash medical support as provided in subsection (2) of
14 section 42-369.

15 Sec. 13. Section 43-512.17, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-512.17 Any financial information provided to the
18 Department of Health and Human Services, the county attorney,
19 or the authorized attorney by either parent for the purpose of
20 facilitating a modification proceeding under sections 43-512.12 to
21 43-512.18 may be disclosed to the other parties to the case or to
22 the court. Financial information shall include the following:

23 (1) An affidavit of financial status provided by the
24 party requesting review;

25 (2) An affidavit of financial status of the nonrequesting

1 party provided by the nonrequesting party or by the requesting
2 party at the request of the county attorney or authorized attorney;

3 (3) Supporting documentation such as state and federal
4 income tax returns, paycheck stubs, W-2 forms, 1099 forms, bank
5 statements, and other written evidence of financial status; and

6 (4) Information relating to health ~~insurance~~ care
7 coverage as provided in subsection (2) of section 42-369.

8 Sec. 14. Section 44-3,144, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 44-3,144 For purposes of sections 44-3,144 to 44-3,150:

11 (1) Authorized attorney has the same meaning as in
12 section 43-512;

13 (2) Child means an individual to whom or on whose behalf
14 a legal duty of support is owed by an obligor;

15 (3) Department means the Department of Health and Human
16 Services;

17 (4) Employer means an individual, a firm, a partnership,
18 a corporation, an association, a union, a political subdivision, a
19 state agency, or any agent thereof who pays income to an obligor on
20 a periodic basis and has or provides health care coverage to the
21 obligor-employee;

22 (5) Health care coverage means a health benefit plan or
23 combination of plans, including fee for service, health maintenance
24 organization, preferred provider organization, and other types of
25 coverage available to either party, under which medical services

1 could be provided to dependent children, other than public medical
2 assistance programs, that provide medical care or benefits;

3 (6) Insurer means an insurer as defined in section 44-103
4 offering a group health plan as defined in 29 U.S.C. 1167, as such
5 section existed on January 1, 2002;

6 (7) Medical support means the provision of health care
7 coverage, contribution to the cost of health care coverage,
8 contribution to expenses associated with the birth of a child,
9 other uninsured medical expenses of a child, or any combination
10 thereof;

11 (8) Medical assistance program means the program
12 established pursuant to the Medical Assistance Act;

13 (9) National medical support notice means a uniform
14 administrative notice issued by the county attorney, authorized
15 attorney, or department to enforce the medical support provisions
16 of a support order;

17 (10) Obligee has the same meaning as in section 43-3341;

18 (11) Obligor has the same meaning as in section 43-3341;

19 (12) Plan administrator means the person or entity that
20 administers health care coverage for an employer;

21 (13) Qualified medical child support order means an order
22 that meets the requirements of 29 U.S.C. 1169, as such section
23 existed on January 1, 2002; and

24 (14) Uninsured medical expenses means the reasonable and
25 necessary health-related expenses that are not paid by health care

1 coverage.

2 Sec. 15. Section 48-647, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 48-647 (1) Any assignment, pledge, or encumbrance of any
5 right to benefits which are or may become due or payable under
6 sections 48-623 to 48-626 shall be void except as set forth in
7 this section. Such rights to benefits shall be exempt from levy,
8 execution, attachment, or any other remedy whatsoever provided for
9 the collection of debt. Benefits received by any individual, so
10 long as they are not mingled with other funds of the recipient,
11 shall be exempt from any remedy whatsoever for the collection of
12 all debts except debts incurred for necessities furnished to such
13 individual or his or her spouse or dependents during the time
14 when such individual was unemployed. Any waiver of any exemption
15 provided for in this section shall be void. Any assignment,
16 pledge, or encumbrance of any right or claim to contributions or
17 to any money credited to any employer's reserve account in the
18 Unemployment Compensation Fund shall be void, and the same shall
19 be exempt from levy, execution, attachment, or any other remedy
20 whatsoever provided for the collection of debt, and any waiver of
21 any exemption provided for in this section shall be void.

22 (2)(a) An individual filing a new claim for unemployment
23 compensation shall, at the time of filing such claim, disclose
24 whether or not he or she owes child support obligations as defined
25 under subdivision (h) of this subsection. If such individual

1 discloses that he or she owes child support obligations and
2 is determined to be eligible for unemployment compensation, the
3 commissioner shall notify the Department of Health and Human
4 Services that the individual has been determined to be eligible for
5 unemployment compensation.

6 (b) The commissioner shall deduct and withhold from
7 any unemployment compensation otherwise payable to an individual
8 disclosing child support obligations:

9 (i) The amount specified by the individual to the
10 commissioner to be deducted under this subsection, if neither
11 subdivision (ii) nor (iii) of this subdivision is applicable;

12 (ii) The amount, if any, determined pursuant to an
13 agreement between the Department of Health and Human Services and
14 such individual owing the child support obligations to have a
15 specified amount withheld and such agreement being submitted to
16 the commissioner, unless subdivision (iii) of this subdivision is
17 applicable; or

18 (iii) The amount otherwise required to be so deducted
19 and withheld from such unemployment compensation pursuant to legal
20 process, as that term is defined in subdivision (2)(i) of this
21 section, properly served upon the commissioner.

22 (c) Any amount deducted and withheld under subdivision
23 (b) of this subsection shall be paid by the commissioner to the
24 Department of Health and Human Services.

25 (d) Any amount deducted and withheld under subdivision

1 (b) or (g) of this subsection shall for all purposes be treated
2 as if it were paid to the individual as unemployment compensation
3 and paid by such individual to the Department of Health and Human
4 Services in satisfaction of his or her child support obligations.

5 (e) For purposes of subdivisions (a) through (d) and
6 (g) of this subsection, the term unemployment compensation shall
7 mean any compensation payable under the Employment Security Law
8 and including amounts payable by the commissioner pursuant to
9 an agreement by any federal law providing for compensation,
10 assistance, or allowances with respect to unemployment.

11 (f) This subsection shall apply only if appropriate
12 arrangements have been made for reimbursement by the Department of
13 Health and Human Services for the administrative costs incurred by
14 the commissioner under this section which are attributable to child
15 support obligations being enforced by the department.

16 (g) The Department of Health and Human Services and the
17 commissioner shall develop and implement a collection system to
18 carry out the intent of this subdivision. The collection system
19 shall, at a minimum, provide that:

20 (i) The commissioner shall periodically notify the
21 Department of Health and Human Services of the information listed
22 in section 43-1719 with respect to individuals determined to be
23 eligible for unemployment compensation during such period;

24 (ii) Unless the county attorney, the authorized attorney,
25 or the Department of Health and Human Services has sent a notice on

1 the same support order under section 43-1720, upon the notification
2 required by subdivision (2)(g)(i) of this section, the Department
3 of Health and Human Services shall send notice to any such
4 individual who owes child support obligations and who is subject
5 to income withholding pursuant to subdivision (2)(a), (2)(b)(ii),
6 or (2)(b)(iii) of section 43-1718.01. The notice shall be sent
7 by certified mail to the last-known address of the individual and
8 shall state the same information as required under section 43-1720;

9 (iii)(A) If the support obligation is not based on a
10 foreign support order entered pursuant to section 43-1729 and the
11 individual requests a hearing, the Department of Health and Human
12 Services shall hold a hearing within fifteen days of the date of
13 receipt of the request. The hearing shall be in accordance with
14 the Administrative Procedure Act. The assignment shall be held in
15 abeyance pending the outcome of the hearing. The department shall
16 notify the individual and the commissioner of its decision within
17 fifteen days of the date the hearing is held; and

18 (B) If the support obligation is based on a foreign
19 support order entered pursuant to section 43-1729 and the
20 individual requests a hearing, the county attorney or authorized
21 attorney shall apply the procedures described in sections 43-1732
22 to 43-1742;

23 (iv)(A) If no hearing is requested by the individual
24 under this subsection or pursuant to a notice sent under section
25 43-1720, (B) if after a hearing under this subsection or section

1 43-1721 the Department of Health and Human Services determines that
2 the assignment should go into effect, (C) in cases in which the
3 court has ordered income withholding for child support pursuant to
4 subsection (1) of section 43-1718.01, or (D) in cases in which the
5 court has ordered income withholding for child support pursuant to
6 section 43-1718.02 and the case subsequently becomes one in which
7 child support collection services are being provided under Title
8 IV-D of the federal Social Security Act, as amended, the Department
9 of Health and Human Services shall certify to the commissioner
10 the amount to be withheld for child support obligations from the
11 individual's unemployment compensation. Such amount shall not in
12 any case exceed the maximum amount permitted to be withheld under
13 section 303(b) of the federal Consumer Credit Protection Act, 15
14 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy an
15 arrearage of child support when added to the amount withheld to pay
16 current support shall not exceed such maximum amount;

17 (v) The collection system shall comply with the
18 requirements of Title III and Title IV-D of the federal Social
19 Security Act, as amended;

20 (vi) The collection system shall be in addition to and
21 not in substitution for or derogation of any other available
22 remedy; and

23 (vii) The Department of Health and Human Services and the
24 commissioner shall adopt and promulgate rules and regulations to
25 carry out subdivision (2)(g) of this section.

1 (h) For purposes of this subsection, the term child
2 support obligations shall include only obligations which are being
3 enforced pursuant to a plan described in section 454 of the federal
4 Social Security Act which has been approved by the Secretary of
5 Health and Human Services under Part D of Title IV of the federal
6 Social Security Act.

7 (i) For purposes of this subsection, the term legal
8 process shall mean any writ, order, summons, or other similar
9 process in the nature of garnishment, which:

10 (i) Is issued by a court of competent jurisdiction of
11 any state, territory, or possession of the United States or an
12 authorized official pursuant to order of such a court of competent
13 jurisdiction or pursuant to state law. For purposes of this
14 subdivision, the chief executive officer of the Department of
15 Health and Human Services shall be deemed an authorized official
16 pursuant to order of a court of competent jurisdiction or pursuant
17 to state law; and

18 (ii) Is directed to, and the purpose of which is
19 to compel, the commissioner to make a payment for unemployment
20 compensation otherwise payable to an individual in order to satisfy
21 a legal obligation of such individual to provide child support.

22 (j) Nothing in this subsection shall be construed to
23 authorize withholding from unemployment compensation of any support
24 obligation other than child support obligations.

25 (3)(a) An individual filing a new claim for unemployment

1 compensation shall, at the time of filing such claim, disclose
2 whether or not he or she owes an uncollected overissuance,
3 as defined in ~~section 13(e)(1) of the federal Food Stamp Act~~
4 ~~of 1977, of feed stamp~~ 7 U.S.C. 2022(c)(1) as such section
5 existed on January 1, 2009, of Supplemental Nutrition Assistance
6 Program benefits, if not otherwise known or disclosed to the
7 state ~~feed stamp~~ Supplemental Nutrition Assistance Program agency.
8 The commissioner shall notify the state ~~feed stamp~~ Supplemental
9 Nutrition Assistance Program agency enforcing such obligation of
10 any individual disclosing that he or she owes an uncollected
11 overissuance whom the commissioner determines is eligible for
12 unemployment compensation.

13 (b) The commissioner shall deduct and withhold from any
14 unemployment compensation payable to an individual who owes an
15 uncollected overissuance (i) the amount specified by the individual
16 to the commissioner to be deducted and withheld under this
17 subsection, (ii) the amount, if any, determined pursuant to an
18 agreement submitted to the state ~~feed stamp~~ Supplemental Nutrition
19 Assistance Program agency under ~~section 13(e)(3)(A) of the federal~~
20 ~~Food Stamp Act of 1977,~~ 7 U.S.C. 2022(c)(3)(A) as such section
21 existed on January 1, 2009, or (iii) any amount otherwise required
22 to be deducted and withheld from unemployment compensation pursuant
23 to ~~section 13(e)(3)(B) of such federal act,~~ 7 U.S.C. 2022(c)(3)(B)
24 as such section existed on January 1, 2009.

25 (c) Any amount deducted and withheld under this

1 subsection shall be paid by the commissioner to the state ~~feed~~
2 ~~stamp~~ Supplemental Nutrition Assistance Program agency.

3 (d) Any amount deducted and withheld under subdivision
4 (b) of this subsection shall be treated for all purposes as if it
5 were paid to the individual as unemployment compensation and paid
6 by such individual to the state ~~feed stamp~~ Supplemental Nutrition
7 Assistance Program agency as repayment of the individual's
8 uncollected overissuance.

9 (e) For purposes of this subsection, unemployment
10 compensation means any compensation payable under the Employment
11 Security Law, including amounts payable by the commissioner
12 pursuant to an agreement under any federal law providing
13 for compensation, assistance, or allowances with respect to
14 unemployment.

15 (f) This subsection applies only if arrangements have
16 been made for reimbursement by the state ~~feed stamp~~ Supplemental
17 Nutrition Assistance Program agency for the administrative costs
18 incurred by the commissioner under this subsection which are
19 attributable to the repayment of uncollected overissuances to the
20 state ~~feed stamp~~ Supplemental Nutrition Assistance Program agency.

21 Sec. 16. Section 48-2302, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-2302 For purposes of the New Hire Reporting Act:

24 (1) Date of hire means the day an employee begins
25 employment with an employer;

1 (2) Department means the Department of Health and Human
2 Services;

3 (3) Employee means ~~any~~ an independent contractor or a
4 person who is compensated by or receives income from an employer or
5 other payor, regardless of how such income is denominated;

6 (4) Employer means any individual, partnership, limited
7 liability company, firm, corporation, association, political
8 subdivision, or department or agency of the state or federal
9 government, labor organization, or any other entity with an
10 employee;

11 (5) Income means compensation paid, payable, due, or to
12 be due for labor or personal services, whether denominated as
13 wages, salary, earnings, income, commission, bonus, or otherwise;

14 (6) Payor includes a person, partnership, limited
15 partnership, limited liability partnership, limited liability
16 company, corporation, or other entity doing business or authorized
17 to do business in the State of Nebraska, including a financial
18 institution, or a department or an agency of state, county, or city
19 government; and

20 (7) Rehire means the first day an employee begins
21 employment with the employer following a termination of employment
22 with such employer. Termination of employment does not include
23 temporary separations from employment, such as an unpaid medical
24 leave, an unpaid leave of absence, a temporary layoff, or an
25 absence for disability or maternity.

1 Sec. 17. Section 68-717, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 68-717 The Department of Health and Human Services shall
4 assume the responsibility for all public assistance, including
5 aid to families with dependent children, emergency assistance,
6 assistance to the aged, blind, or disabled, medically handicapped
7 children's services, commodities, ~~feed stamps,~~ the Supplemental
8 Nutrition Assistance Program, and medical assistance.

9 Sec. 18. Section 68-901, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 68-901 Sections 68-901 to 68-956 and section 23 of this
12 act shall be known and may be cited as the Medical Assistance Act.

13 Sec. 19. Section 68-906, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 68-906 For purposes of paying medical assistance under
16 the Medical Assistance Act and sections 68-1002 and 68-1006, the
17 State of Nebraska accepts and assents to all applicable provisions
18 of Title XIX and Title XXI of the federal Social Security Act.
19 Any reference in the Medical Assistance Act to the federal Social
20 Security Act or other acts or sections of federal law shall be to
21 such federal acts or sections as they existed on January 1, ~~2008-~~
22 2009.

23 Sec. 20. Section 68-908, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 68-908 (1) The department shall administer the medical

1 assistance program.

2 (2) The department may (a) enter into contracts and
3 interagency agreements, (b) adopt and promulgate rules and
4 regulations, (c) adopt fee schedules, (d) apply for and implement
5 waivers and managed care plans for eligible recipients, and (e)
6 perform such other activities as necessary and appropriate to carry
7 out its duties under the Medical Assistance Act.

8 (3) The department shall maintain the confidentiality
9 of information regarding applicants for or recipients of medical
10 assistance and such information shall only be used for purposes
11 related to administration of the medical assistance program and the
12 provision of such assistance or as otherwise permitted by federal
13 law.

14 (4) (a) The department shall prepare a ~~biennial~~ an annual
15 summary and analysis of the medical assistance program for
16 legislative and public review, including, but not limited to,
17 a description of eligible recipients, covered services, provider
18 reimbursement, program trends and projections, program budget and
19 expenditures, the status of implementation of the Medicaid Reform
20 Plan, and recommendations for program changes.

21 (b) The department shall provide a draft report of such
22 summary and analysis to the Medicaid Reform Council no later
23 than ~~October 1 of each even-numbered~~ September 15 of each year.
24 The council shall conduct a public meeting no later than October
25 ~~15~~ 1 of ~~such~~ each year to discuss and receive public comment

1 regarding such report. The council shall provide any comments and
2 recommendations regarding such report in writing to the department
3 ~~and the committee~~ no later than November 1 of ~~such~~ each year. The
4 department shall submit a final report of such summary and analysis
5 to the Governor, the Legislature, and the council no later than
6 December 1 of ~~such year~~, each year. Such final report shall include
7 a response to each written recommendation provided by the council.

8 Sec. 21. Section 68-934, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 68-934 Sections 68-934 to 68-947 and section 23 of this
11 act shall be known and may be cited as the False Medicaid Claims
12 Act.

13 Sec. 22. Section 68-940, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 68-940 (1) In determining the amount of any penalties or
16 damages awarded under the False Medicaid Claims Act, the following
17 shall be taken into account:

18 (a) The nature of claims and the circumstances under
19 which they were presented;

20 (b) The degree of culpability and history of prior
21 offenses of the person presenting the claims;

22 (c) Coordination of the total penalties and damages
23 arising from the same claims, goods, or services, whether based on
24 state or federal statute; and

25 (d) Such other matters as justice requires.

1 (2) (a) Any person who presents a false medicaid claim is
2 subject to civil liability as provided in section 68-936, except
3 when the court finds that:

4 (i) The person committing the violation of the False
5 Medicaid Claims Act furnished officials of the state responsible
6 for investigating violations of the act with all information known
7 to such person about the violation within thirty days after the
8 date on which the defendant first obtained the information;

9 (ii) Such person fully cooperated with any state
10 investigation of such violation; and

11 (iii) At the time such person furnished the state with
12 the information about the violation, no criminal prosecution, civil
13 action, or administrative action had commenced under the act with
14 respect to such violation and the person did not have actual
15 knowledge of the existence of an investigation into such violation.

16 (b) The court may assess not more than two times the
17 amount of the false medicaid claims submitted because of the action
18 of a person coming within the exception under subdivision (2) (a)
19 of this section, and such person is also liable for the state's
20 costs and attorney's fees for a civil action brought to recover any
21 penalty or damages.

22 (3) Amounts recovered under the False Medicaid Claims Act
23 shall be remitted to the State Treasurer for credit to the Health
24 and Human Services Cash Fund, except that (a) amounts recovered
25 for the state's costs and attorney's fees pursuant to subdivision

1 (2) (b) of this section and sections 68-936 and 68-939 shall be
2 remitted to the State Treasurer for credit to the State Medicaid
3 Fraud Control Unit Cash Fund and (b) the State Treasurer shall
4 distribute civil penalties in accordance with Article VII, section
5 5, of the Constitution of Nebraska.

6 Sec. 23. The State Medicaid Fraud Control Unit Cash Fund
7 is created. The fund shall be maintained by the Department of
8 Justice and administered by the Attorney General. The fund shall
9 consist of any recovery for the state's costs and attorney's fees
10 received pursuant to subdivision (2) (b) of section 68-940 and
11 sections 68-936 and 68-939, except criminal penalties, whether such
12 recovery is by way of verdict, judgment, compromise, or settlement
13 in or out of court, or other final disposition of any case or
14 controversy under such subdivision or sections. Money in the fund
15 shall be used to pay the salaries and related expenses of the
16 Department of Justice for the state medicaid fraud control unit.
17 Any money in the fund available for investment shall be invested
18 by the state investment officer pursuant to the Nebraska Capital
19 Expansion Act and the Nebraska State Funds Investment Act.

20 Sec. 24. Section 68-948, Revised Statutes Cumulative
21 Supplement, 2008, is amended to read:

22 68-948 (1) The Medicaid Reform Council is established.
23 The council shall consist of ten persons appointed by ~~the~~
24 ~~chairperson of the committee, in consultation with the committee,~~
25 the Governor. The chairperson of the Health and Human Services

1 Committee of the Legislature or his or her designee shall serve
 2 as a nonvoting, ex officio member of the council. ~~7 and the~~
 3 ~~department.~~ The council shall include, but not be limited to, at
 4 least one representative from each of the following: Providers,
 5 recipients of medical assistance, advocates for such recipients,
 6 business representatives, insurers, and elected officials. The
 7 ~~chairperson of the committee~~ Governor shall appoint the chairperson
 8 of the council. Members of the council may be reimbursed for their
 9 actual and necessary expenses as provided in sections 81-1174 to
 10 81-1177.

11 (2) The council shall (a) oversee and ~~support~~ advise
 12 the department regarding implementation of reforms to the medical
 13 assistance program, including, but not limited to, reforms such as
 14 those contained in the Medicaid Reform Plan, (b) conduct ~~at least~~
 15 ~~two public meetings annually~~ at least quarterly and other meetings
 16 at the call of the chairperson of the council, in consultation
 17 with the department, ~~and the chairperson of the committee,~~ and (c)
 18 provide comments and recommendations to the department regarding
 19 the administration of the medical assistance program and any
 20 proposed changes to such program.

21 ~~(3) The Medicaid Reform Council and this section~~
 22 ~~terminate on June 30, 2010.~~

23 (3) The department shall provide the council with any
 24 reports, data, analysis, or other such information upon which the
 25 department relied, which provided a basis for the department's

1 proposed reforms, or which the department otherwise intends to
2 present to the council at least two weeks prior to the quarterly
3 meeting.

4 (4) Beginning June 30, 2010, the terms of the existing
5 members of the council shall be extended as follows: One-half
6 of the members shall serve for two-year terms and one-half of
7 the members shall serve for four-year terms as determined by the
8 Governor. Thereafter all members shall serve for four-year terms.
9 Members may be reappointed at the discretion of the Governor.
10 Appointments to the council occurring as a result of replacement of
11 an existing member at the expiration of the member's term or due to
12 resignation of an existing member shall be made by the Governor.

13 Sec. 25. Section 68-1016, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 68-1016 The chief executive officer of the Department of
16 Health and Human Services, or his or her designated representative,
17 shall provide for granting an opportunity for a fair hearing to
18 any individual whose claim for assistance to the aged, blind, or
19 disabled, aid to dependent children, emergency assistance, medical
20 assistance, commodities, or ~~feed stamp~~ Supplemental Nutrition
21 Assistance Program benefits is denied, is not granted in full,
22 or is not acted upon with reasonable promptness. An appeal shall
23 be taken by filing with the department a written notice of
24 appeal setting forth the facts on which the appeal is based. The
25 department shall thereupon, in writing, notify the appellant of the

1 time and place for hearing which shall be not less than one week
2 nor more than six weeks from the date of such notice. Hearings
3 shall be before the duly authorized agent of the department. On the
4 basis of evidence adduced, the duly authorized agent shall enter a
5 final order on such appeal, which order shall be transmitted to the
6 appellant.

7 Sec. 26. Section 68-1017, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 68-1017 Any person, including vendors and providers
10 of medical assistance and social services, who, by means of a
11 willfully false statement or representation, or by impersonation
12 or other device, obtains or attempts to obtain, or aids or
13 abets any person to obtain or to attempt to obtain (1) an
14 assistance certificate of award to which he or she is not entitled,
15 (2) any commodity, any foodstuff, any food coupon, any ~~feed~~
16 ~~stamp~~ Supplemental Nutrition Assistance Program coupon, electronic
17 benefit, or electronic benefit card, or any payment to which
18 such individual is not entitled or a larger payment than that
19 to which he or she is entitled, (3) any payment made on behalf
20 of a recipient of medical assistance or social services, or (4)
21 any other benefit administered by the Department of Health and
22 Human Services, or who violates any statutory provision relating to
23 assistance to the aged, blind, or disabled, aid to dependent
24 children, social services, or medical assistance, commits an
25 offense and shall upon conviction be punished as follows: (a)

1 If the aggregate value of all funds or other benefits obtained or
2 attempted to be obtained is less than five hundred dollars, the
3 person so convicted shall be guilty of a Class III misdemeanor; or
4 (b) if the aggregate value of all funds and other benefits obtained
5 or attempted to be obtained is five hundred dollars or more, the
6 person so convicted shall be guilty of a Class IV felony.

7 Sec. 27. Section 68-1017.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 68-1017.01 (1) A person commits an offense if he or she
10 knowingly uses, alters, or transfers any ~~feed stamp~~ Supplemental
11 Nutrition Assistance Program coupons, electronic benefits, or
12 electronic benefit cards or any authorizations to participate
13 in the ~~feed stamp program~~ Supplemental Nutrition Assistance Program
14 in any manner not authorized by law. An offense under this
15 subsection shall be a Class III misdemeanor if the value of
16 the Supplemental Nutrition Assistance Program coupons, electronic
17 benefits, electronic benefit cards, or authorizations is less than
18 five hundred dollars and shall be a Class IV felony if the value is
19 five hundred dollars or more.

20 (2) A person commits an offense if he or she knowingly
21 (a) possesses any ~~feed stamp~~ Supplemental Nutrition Assistance
22 Program coupons, electronic benefits, or electronic benefit cards
23 or any authorizations to participate in the ~~feed stamp program~~
24 Supplemental Nutrition Assistance Program when such individual is
25 not authorized by law to possess them, (b) redeems ~~feed stamp~~

1 Supplemental Nutrition Assistance Program coupons, electronic
2 benefits, or electronic benefit cards when he or she is not
3 authorized by law to redeem them, or (c) redeems ~~feed stamp~~
4 Supplemental Nutrition Assistance Program coupons, electronic
5 benefits, or electronic benefit cards for purposes not authorized
6 by law. An offense under this subsection shall be a Class III
7 misdemeanor if the value of the Supplemental Nutrition Assistance
8 Program coupons, electronic benefits, electronic benefit cards, or
9 authorizations is less than five hundred dollars and shall be a
10 Class IV felony if the value is five hundred dollars or more.

11 (3) A person commits an offense if he or she knowingly
12 possesses blank authorizations to participate in the ~~feed stamp~~
13 ~~program~~ Supplemental Nutrition Assistance Program when such
14 possession is not authorized by law. An offense under this
15 subsection shall be a Class IV felony.

16 (4) When any ~~feed stamp~~ Supplemental Nutrition Assistance
17 Program coupons, electronic benefits, or electronic benefit cards
18 or any authorizations to participate in the ~~feed stamp program~~
19 Supplemental Nutrition Assistance Program of various values are
20 obtained in violation of this section pursuant to one scheme or
21 a continuing course of conduct, whether from the same or several
22 sources, such conduct may be considered as one offense, and the
23 values aggregated in determining the grade of the offense.

24 Sec. 28. Section 68-1017.02, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 68-1017.02 (1)(a) The Department of Health and Human
2 Services shall apply for and utilize to the maximum extent
3 possible, within limits established by the Legislature, any and
4 all appropriate options available to the state under the federal
5 ~~feed stamp program~~ Supplemental Nutrition Assistance Program and
6 regulations adopted under such program to maximize the number of
7 Nebraska residents being served under such program within such
8 limits. The department shall seek to maximize federal funding for
9 such program and minimize the utilization of General Funds for
10 such program and shall employ the personnel necessary to determine
11 the options available to the state and issue the report to the
12 Legislature required by subdivision (b) of this subsection.

13 (b) The department shall report annually to the Health
14 and Human Services Committee of the Legislature by December 1
15 on efforts by the department to carry out the provisions of
16 this subsection. Such report shall provide the committee with all
17 necessary and appropriate information to enable the committee to
18 conduct a meaningful evaluation of such efforts. Such information
19 shall include, but not be limited to, a clear description of
20 various options available to the state under the federal ~~feed~~
21 ~~stamp program,~~ Supplemental Nutrition Assistance Program, the
22 department's evaluation of and any action taken by the department
23 with respect to such options, the number of persons being served
24 under such program, and any and all costs and expenditures
25 associated with such program.

1 (c) The Health and Human Services Committee of the
2 Legislature, after receipt and evaluation of the report required in
3 subdivision (b) of this subsection, shall issue recommendations to
4 the department on any further action necessary by the department to
5 meet the requirements of this section.

6 (2)(a) Within the limits specified in this subsection,
7 the State of Nebraska opts out of the provision of the federal
8 Personal Responsibility and Work Opportunity Reconciliation Act of
9 1996, as such act existed on ~~July 18, 2008~~, January 1, 2009, that
10 eliminates eligibility for ~~feed stamps~~ the Supplemental Nutrition
11 Assistance Program for any person convicted of a felony involving
12 the possession, use, or distribution of a controlled substance.

13 (b) A person shall be ineligible for ~~feed stamp~~
14 Supplemental Nutrition Assistance Program benefits under this
15 subsection if he or she (i) has had three or more felony
16 convictions for the possession or use of a controlled substance
17 or (ii) has been convicted of a felony involving the sale or
18 distribution of a controlled substance or the intent to sell or
19 distribute a controlled substance. A person with one or two felony
20 convictions for the possession or use of a controlled substance
21 shall only be eligible to receive ~~feed stamp~~ Supplemental Nutrition
22 Assistance Program benefits under this subsection if he or she is
23 participating in or has completed a state-licensed or nationally
24 accredited substance abuse treatment program since the date of
25 conviction. The determination of such participation or completion

1 shall be made by the treatment provider administering the program.

2 Sec. 29. Section 68-1070, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 68-1070 (1) If the following non-United-States citizens
5 meet the income and other requirements for participation in the
6 medical assistance program established pursuant to the Medical
7 Assistance Act, in the program for financial assistance pursuant to
8 section 43-512, in the ~~feed stamp program~~ Supplemental Nutrition
9 Assistance Program administered by the State of Nebraska pursuant
10 to the federal ~~Food Stamp~~ and Nutrition Act of 2008 as the act
11 existed on January 1, 2009, or in the program for assistance to the
12 aged, blind, and disabled, such persons shall be eligible for such
13 program or benefits:

14 (a) Non-United-States citizens lawfully admitted,
15 regardless of the date entry was granted, into the United States
16 for permanent residence;

17 (b) Refugees admitted under section 207 of the federal
18 Immigration and Naturalization Act, non-United-States citizens
19 granted asylum under section 208 of such federal act, and
20 non-United-States citizens whose deportation is withheld under
21 section 243(h) of such federal act, regardless of the date of entry
22 into the United States; and

23 (c) Individuals for whom coverage is mandated under
24 federal law.

25 (2) Individuals eligible for ~~feed stamp~~ assistance the

1 Supplemental Nutrition Assistance Program under this section shall
2 receive any ~~food stamp~~ Supplemental Nutrition Assistance Program
3 coupons or electronic benefits or a state voucher which can be used
4 only for food products authorized under the federal Food Stamp ~~and~~
5 Nutrition Act of 2008 as the act existed on January 1, 2009, in the
6 amount of the ~~food stamp~~ Supplemental Nutrition Assistance Program
7 benefit for which this individual was otherwise eligible but for
8 the citizenship provisions of Public Law 104-193, 110 Stat. 2105
9 (1996).

10 (3) The income and resources of any individual who
11 assists a non-United-States citizen to enter the United States
12 by signing an affidavit of support shall be deemed available
13 in determining the non-United-States citizen's eligibility for
14 assistance until the non-United-States citizen becomes a United
15 States citizen.

16 Sec. 30. Section 68-1713, Revised Statutes Cumulative
17 Supplement, 2008, is amended to read:

18 68-1713 (1) The Department of Health and Human Services
19 shall implement the following policies:

20 (a) Permit Work Experience in Private for-Profit
21 Enterprises;

22 (b) Permit Job Search;

23 (c) Permit Employment to be Considered a Program
24 Component;

25 (d) Make Sanctions More Stringent to Emphasize

1 Participant Obligations;

2 (e) Alternative Hearing Process;

3 (f) Permit Adults in Two-Parent Households to Participate
4 in Activities Based on Their Self-Sufficiency Needs;

5 (g) Eliminate Exemptions for Individuals with Children
6 Between the Ages of 12 Weeks and Age Six;

7 (h) Providing Poor Working Families with Transitional
8 Child Care to Ease the Transition from Welfare to Self-Sufficiency;

9 (i) Provide Transitional Health Care for 12 Months After
10 Termination of ADC if funding for such transitional medical
11 assistance is available under Title XIX of the federal Social
12 Security Act, as amended, as described in section 68-906;

13 (j) Require Adults to Ensure that Children in the Family
14 Unit Attend School;

15 (k) Encourage Minor Parents to Live with Their Parents;

16 (l) Establish a Resource Limit of \$4,000 for a single
17 individual and \$6,000 for two or more individuals for ADC;

18 (m) Exclude the Value of One Vehicle Per Family When
19 Determining ADC Eligibility;

20 (n) Exclude the Cash Value of Life Insurance Policies in
21 Calculating Resources for ADC;

22 (o) Establish ~~Feed Stamps~~ the Supplemental Nutrition
23 Assistance Program as a Continuous Benefit with Eligibility
24 Reevaluated with Yearly Redeterminations;

25 (p) Establish a Budget the Gap Methodology Whereby

1 Countable Earned Income is Subtracted from the Standard of the
2 Need and Payment is Based on the Difference or Maximum Payment
3 Level, Whichever is Less. That this Gap be Established at a Level
4 that Encourages Work but at Least at a Level that Ensures that
5 Those Currently Eligible for ADC do not Lose Eligibility Because of
6 the Adoption of this Methodology;

7 (q) Adopt an Earned Income Disregard of Twenty Percent of
8 Gross Earnings in the ADC Program and One Hundred Dollars in the
9 Related Medical Assistance Program;

10 (r) Disregard Financial Assistance Received Intended for
11 Books, Tuition, or Other Self-Sufficiency Related Use;

12 (s) Culture: Eliminate the 100-Hour Rule, The Quarter of
13 Work Requirement, and The 30-Day Unemployed/Underemployed Period
14 for ADC-UP Eligibility; and

15 (t) Make ADC a Time-Limited Program.

16 (2) The Department of Health and Human Services shall (a)
17 apply for a waiver to allow for a sliding-fee schedule for the
18 population served by the caretaker relative program or (b) pursue
19 other public or private mechanisms, to provide for transitional
20 health care benefits to individuals and families who do not
21 qualify for cash assistance. It is the intent of the Legislature
22 that transitional health care coverage be made available on a
23 sliding-scale basis to individuals and families with incomes up to
24 one hundred eighty-five percent of the federal poverty level if
25 other health care coverage is not available.

1 Sec. 31. Section 71-401, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 71-401 Sections 71-401 to 71-459 and section 32 of this
4 act shall be known and may be cited as the Health Care Facility
5 Licensure Act.

6 Sec. 32. A health care facility or a health care
7 practitioner facility, upon written request of a patient or
8 a patient's representative, shall provide an itemized billing
9 statement, including diagnostic codes, without charge to the
10 patient or patient's representative. Such itemized billing
11 statement shall be provided within fourteen days after the request.

12 Sec. 33. Section 71-531, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-531 ~~(1)~~ (1)(a) No person may be tested for the
15 presence of the human immunodeficiency virus infection unless he or
16 she has given written informed consent for the performance of such
17 test. A parent of a minor child or a judicially appointed guardian
18 may give such consent. The written informed consent shall provide
19 an explanation of human immunodeficiency virus infection and the
20 meaning of both positive and negative test results.

21 (b) If a person signs a general consent form for the
22 performance of medical tests or procedures which informs the person
23 that a test for the presence of the human immunodeficiency virus
24 infection may be performed and that the person may refuse to have
25 such test performed, the signing of an additional consent for

1 the specific purpose of consenting to a test related to human
2 immunodeficiency virus is not required during the time in which the
3 general consent form is in effect.

4 (2) If a person is unable to provide consent, the
5 person's legal representative may provide consent. If the person's
6 legal representative cannot be located or is unavailable, a health
7 care provider may authorize the test when the test results are
8 necessary for diagnostic purposes to provide appropriate medical
9 care.

10 ~~(2) The written informed consent shall provide:~~

11 ~~(a) An explanation of the test, including the test's~~
12 ~~purposes, potential uses, and limitations, and the meaning of both~~
13 ~~positive and negative results;~~

14 ~~(b) An explanation of the nature of the human~~
15 ~~immunodeficiency virus and acquired immunodeficiency syndrome,~~
16 ~~including the relationship between the test results and the~~
17 ~~diseases which are part of the syndrome;~~

18 ~~(c) An explanation of the procedures to be followed,~~
19 ~~including the fact that the test is entirely voluntary; and~~

20 ~~(d) Information concerning behavioral patterns known to~~
21 ~~expose a person to the possibility of contracting the human~~
22 ~~immunodeficiency virus and the methods for minimizing the risk of~~
23 ~~exposure.~~

24 (3) A person seeking a human immunodeficiency virus test
25 shall have the right to remain anonymous. A health care provider

1 shall confidentially refer such person to a site which provides
2 anonymous testing.

3 (4) This section shall not apply to:

4 (a) The performance by a health care provider or a health
5 facility of a human immunodeficiency virus test when the health
6 care provider or health facility procures, processes, distributes,
7 or uses a human body part for a purpose specified under the Uniform
8 Anatomical Gift Act and such test is necessary to assure medical
9 acceptability of such gift for the purposes intended;

10 (b) The performance by a health care provider or a health
11 facility of a human immunodeficiency virus test when such test is
12 performed with the consent and written authorization of the person
13 being tested and such test is for insurance underwriting purposes,
14 written information about the human immunodeficiency virus is
15 provided, including, but not limited to, the identification and
16 reduction of risks, the person is informed of the result of such
17 test, and when the result is positive, the person is referred for
18 posttest counseling;

19 (c) The performance of a human immunodeficiency
20 virus test by licensed medical personnel of the Department of
21 Correctional Services when the subject of the test is committed
22 to such department. Posttest counseling shall be required for
23 the subject if the test is positive. A person committed to
24 the Department of Correctional Services shall be informed by
25 the department (i) if he or she is being tested for the human

1 immunodeficiency virus, (ii) that education shall be provided to
2 him or her about the human immunodeficiency virus, including, but
3 not limited to, the identification and reduction of risks, and
4 (iii) of the test result and the meaning of such result;

5 (d) Human immunodeficiency virus home collection kits
6 licensed by the federal Food and Drug Administration; or

7 (e) The performance of a human immunodeficiency virus
8 test performed pursuant to section 29-2290 or sections 71-507 to
9 71-513 or 71-514.01 to 71-514.05.

10 Sec. 34. Section 71-604.05, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 71-604.05 (1) The department shall not file (a) a
13 certificate of live birth, (b) a certificate of delayed birth
14 registration for a registrant who is under twenty-five years of
15 age when an application for such certificate is filed, (c) a
16 certificate of live birth filed after adoption of a Nebraska-born
17 person who is under twenty-five years of age or a person born
18 outside of the jurisdiction of the United States, or (d) a
19 certificate of live birth issued pursuant to section 71-628 unless
20 the social security number or numbers issued to the parents are
21 furnished by the person seeking to register the birth. No such
22 certificate may be amended to show paternity unless the social
23 security number of the father is furnished by the person requesting
24 the amendment. The social security number shall not be required if
25 no social security number has been issued to the parent or if the

1 social security number is unknown.

2 (2) Social security numbers (a) shall be recorded on
3 the birth certificate but shall not be considered part of the
4 birth certificate and (b) shall only be used for the purpose of
5 enforcement of child support orders in Nebraska as permitted by
6 Title IV-D of the federal Social Security Act, as amended, or as
7 permitted by section 7(a) of the federal Privacy Act of 1974, as
8 amended.

9 (3) The department may release data to the Social
10 Security Administration which is necessary to obtain a social
11 security number and which is contained on the birth certificate
12 of any individual who has applied for or is receiving medicaid or
13 ~~feed stamp~~ Supplemental Nutrition Assistance Program benefits. The
14 department shall make such data available only for the purpose of
15 obtaining a social security number for the individual.

16 (4) The department shall provide to the Social Security
17 Administration each parent's name and social security number
18 collected in the birth certification process as required by the
19 federal Taxpayer Relief Act of 1997.

20 Sec. 35. Section 71-5309, Revised Statutes Cumulative
21 Supplement, 2008, is amended to read:

22 71-5309 (1) The director shall adopt and promulgate
23 minimum necessary rules and regulations governing the
24 qualifications of operators of public water systems. In
25 adopting such rules and regulations, the director shall give

1 consideration to the levels of training and experience which are
2 required, in the opinion of the director, to insure to the greatest
3 extent possible that the public water systems shall be operated
4 in such a manner that (a) maximum efficiency can be attained, (b)
5 interruptions in service will not occur, (c) chemical treatment of
6 the water will be adequate to maintain purity and safety, and (d)
7 harmful materials will not enter the public water system.

8 (2) The director may require, by rule and regulation,
9 that the applicant for a license successfully pass an examination
10 on the subject of operation of a public water system. The rules and
11 regulations, and any tests so administered, may set out different
12 requirements for public water systems based on one or more of
13 the following: Physical size of the facilities, number of persons
14 served, system classification, source of water, treatment technique
15 and purpose, and distribution complexity, so long as the criteria
16 set forth in this section are followed.

17 (3) An applicant for a license as a public water system
18 operator under the Nebraska Safe Drinking Water Act who previously
19 held a license or certification as a public water system operator
20 under the act and whose license or certification expired two years
21 or more prior to the date of application shall take the examination
22 required to be taken by an applicant for an initial license under
23 the act. The department's review of the application for licensure
24 by an applicant under this subsection shall include the results of
25 such examination and the applicant's experience and training. The

1 department may by rules and regulations establish requirements for
2 relicensure under the act which are more stringent for applicants
3 whose license is expired or has been revoked or suspended than
4 those for applicants for initial licensure.

5 Sec. 36. Section 77-27,166, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-27,166 (1) ~~By December 1 of each year, the~~ The
8 Department of Health and Human Services may submit any certified
9 debt of twenty-five dollars or more to the Department of Revenue
10 except when the validity of the debt is legitimately in dispute.
11 The submission of debts of past due support shall be a continuous
12 submission process that allows the amount of past due support
13 to fluctuate up or down depending on the actual amount owed.
14 Any submission shall be effective only to initiate setoff for a
15 claim against a refund that would be made for the calendar year
16 subsequent to the year in which such submission is made.

17 (2) The Lottery Division of the Department of Revenue
18 shall review all current debts on the records of the Department of
19 Health and Human Services at the time of redeeming a lottery ticket
20 for a state lottery prize to certify a debt owed by a winner of a
21 state lottery prize.

22 Sec. 37. Section 81-2270, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-2270 Services identified by care plans for those not
25 eligible for services provided through the home and community-based

1 waiver for the aged and disabled may be purchased with funds
2 appropriated through ~~sections 81-2265 to 81-2271,~~ section 81-2235
3 based on a sliding-fee scale. ~~The Department of Health and Human~~
4 ~~Services shall adopt and promulgate rules and regulations to~~
5 ~~establish procedures and standards to implement this section of the~~
6 ~~pilot project for preadmission screening.~~

7 Sec. 38. Section 81-2271, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-2271 The Department of Health and Human Services shall
10 adopt and promulgate rules and regulations to establish procedures
11 and standards to implement the intent of sections ~~81-2265~~ 81-2268
12 to 81-2271.

13 Sec. 39. Section 81-3119, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-3119 The Health and Human Services Cash Fund is
16 created and shall consist of funds from contracts, grants, gifts,
17 or fees. On or before July 15, 2008, one million dollars shall
18 be transferred from the Health and Human Services Cash Fund to
19 the Rural Health Professional Incentive Fund. On July 9, 2009,
20 two hundred fifteen thousand dollars shall be transferred from the
21 Health and Human Services Cash Fund to the State Medicaid Fraud
22 Control Unit Cash Fund. Any money in the Health and Human Services
23 Cash Fund available for investment shall be invested by the state
24 investment officer pursuant to the Nebraska Capital Expansion Act
25 and the Nebraska State Funds Investment Act.

1 Sec. 40. Section 83-1209, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-1209 To carry out the policies and purposes of the
4 Developmental Disabilities Services Act, the director shall:

5 (1) Ensure effective management by (a) determining
6 whether applicants are eligible for specialized services, (b)
7 authorizing service delivery for eligible persons, (c) ensuring
8 that services are available, accessible, and coordinated, (d)
9 ensuring that eligible persons have their needs assessed by a team
10 process, have individual program plans developed by a team process
11 to address assessed needs, which plans incorporate the input of
12 the individual and the family, and have services delivered in
13 accordance with the program plan, (e) having the amount of funding
14 for specialized services determined by an objective assessment
15 process, ~~as developed in subsection (3) of section 83-1216,~~
16 (f) providing information and referral services to persons with
17 developmental disabilities and their families, (g) promoting the
18 development of pilot projects of high quality, cost-efficient
19 services provided by specialized programs, and (h) administering
20 the Beatrice State Developmental Center;

21 (2) Ensure a coordinated statewide response by (a)
22 developing a comprehensive and integrated statewide plan for
23 specialized services to persons with developmental disabilities
24 in conjunction with state and local officials, designated advocates
25 for such persons, service providers, and the general public, (b)

1 reporting biennially to the Legislature, the Governor, service
2 providers, and the public on persons served and progress made
3 toward meeting requirements of the plan, and (c) creating a
4 statewide registry of persons eligible for specialized services;

5 (3) Ensure specialized services which are efficient and
6 individualized by (a) developing a written policy which ensures the
7 adequate and equitable distribution of fiscal resources based upon
8 a consistent rationale for reimbursement that allows funding to
9 follow service recipients as their service needs change and which
10 also includes a plan for funding shortfalls and (b) administering
11 all state and federal funds as may be allowed by law; ~~used by~~
12 ~~specialized programs in the state;~~

13 (4) Ensure maximum quality of services by (a) developing
14 a due process mechanism for resolution of disputes, (b)
15 coordinating the development of review teams designed to enhance
16 the quality of specialized services, (c) developing certification
17 and accreditation requirements for service providers, (d) providing
18 technical assistance to local service providers, and (e) providing
19 eligible persons, their families, and the designated protection
20 and advocacy system authorized pursuant to the Developmental
21 Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C.
22 15001 et seq., with copies of all reports resulting from surveys
23 of providers of specialized services conducted as part of the
24 certification and accreditation process; and

25 (5) Establish and staff a developmental disabilities

1 division which shall assist in carrying out the policies and
2 purposes of the Developmental Disabilities Services Act.

3 Sec. 41. Section 83-1211, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 83-1211 A person receiving specialized services from
6 a local specialized program which receives financial assistance
7 through the department shall be responsible for the cost of such
8 services in the same manner as are persons receiving ~~care~~ services
9 at the Beatrice State Developmental Center. Provisions of law in
10 effect on September 6, 1991, or enacted after such date relating to
11 the responsibility of such persons and their relatives for the cost
12 of and determination of ability to pay for services at the center
13 shall also apply to persons receiving services from specialized
14 programs.

15 Sec. 42. Section 83-1213, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 83-1213 (1) The department shall ~~establish~~ a provide
18 for the establishment of at least one quality review team for
19 each developmental disability ~~region.~~ service area designated by
20 the department. Each team shall consist of at least four members
21 ~~appointed by the director~~ and shall include at least one person
22 with a developmental disability, at least one parent or other
23 close relative of a person with a developmental disability, and
24 at least one person who is neither a person with a developmental
25 disability nor a close relative of such a person. No employee

1 of any governmental agency or instrumentality or any specialized
2 program shall be eligible to be appointed to a team. ~~Members~~
3 ~~shall be chosen from~~ The department shall consider nominations
4 ~~submitted by~~ for such teams from advocacy groups, providers,
5 elected officials, or other groups or by persons interested in
6 developmental disability services who are located in the service
7 area of the developmental disability region. where such team is
8 established.

9 (2) For each quality review team, one member shall be
10 appointed for a term of one year, one member for a term of two
11 years, one member for a term of three years, and one member for a
12 term of four years with the director designating the expiration of
13 the initial term of office of each member. Thereafter, successors
14 shall serve for terms of four years. In case of a vacancy, a
15 successor shall be appointed for the unexpired term. Members of
16 each quality review team shall be reimbursed by the department for
17 their actual and necessary expenses incurred in the performance of
18 their official duties as provided in sections 81-1174 to 81-1177.

19 ~~(3)~~ (3)(a) Each quality review team shall ~~(a)~~ conduct
20 an annual quality-of-life survey of persons with developmental
21 disabilities receiving services in a developmental disability
22 region and of their families, guardians, and designated advocates,
23 ~~(b)~~ receive, investigate, and hear complaints from persons
24 with developmental disabilities and their families, guardians,
25 and designated advocates, and ~~(c)~~ make recommendations to the

1 ~~developmental disability region.~~ (i) conduct onsite visits of
2 persons with developmental disabilities receiving residential
3 services funded in whole or in part by the department, (ii) assess
4 the quality of life of such persons receiving such services, (iii)
5 make recommendations to improve the quality of such services on
6 behalf of such persons, and (iv) perform such advisory or other
7 duties as provided or approved in rules and regulations adopted and
8 promulgated by the department.

9 (b) In making quality of life assessments of persons
10 receiving such services, the quality review team shall consider the
11 extent to which such persons (i) are able to exercise choice and
12 control regarding the type and provider of services they receive
13 and the daily activities in which they are engaged, (ii) are
14 treated with respect and dignity by their service providers, (iii)
15 have access to necessary services, equipment, and support, and (iv)
16 are able to participate in activities and events that maximize
17 community integration and inclusion.

18 (4) Each quality review team shall provide quarterly and
19 annual written reports to the department and service providers of
20 visits conducted and assessments completed under this section.

21 Sec. 43. Section 83-1217, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 83-1217 The department shall contract for specialized
24 services and shall only contract with specialized programs
25 which meet certification and accreditation requirements. Assisted

1 services provided under this section through community-based
2 developmental disability programs shall be reimbursed on a daily
3 rate basis, including such services provided to eligible recipients
4 under the medical assistance program established in section 68-903
5 upon approval for such reimbursement from the federal Centers for
6 Medicare and Medicaid Services. The department shall apply to the
7 federal Centers for Medicare and Medicaid Services for approval
8 of any necessary waiver amendments to permit such reimbursement
9 no later than September 1, 2009, and shall begin reimbursing such
10 services on a daily rate basis no later than ninety days after such
11 approval. In order to be certified, each specialized program shall:

- 12 (1) Have an internal quality assurance process;
- 13 (2) Have a program evaluation component;
- 14 (3) Have a complaint mechanism for persons with
15 developmental disabilities and their families;
- 16 (4) Have a process to ensure direct and open
17 communication with the department;
- 18 (5) Develop, implement, and regularly evaluate a plan to
19 ensure retention of quality employees and prevent staff turnover;
- 20 (6) Have measures to enhance staff training and
21 development;
- 22 (7) Be governed by a local governing board or have an
23 advisory committee, the membership of which consists of (a) county
24 commissioners or other locally elected officials, (b) persons with
25 developmental disabilities or members of their families, and (c)

1 persons who are not elected officials, persons with developmental
2 disabilities, or family members of persons with developmental
3 disabilities. At least one-third of the membership shall be persons
4 with developmental disabilities or members of their families. No
5 more than one-third of the membership shall be elected officials,
6 and no more than one-third of the membership shall be persons who
7 are not elected officials, persons with developmental disabilities,
8 or family members of persons with developmental disabilities;

9 (8) Meet accreditation standards developed by the
10 department;

11 (9) Require a criminal history record information check
12 of all employees hired on or after September 13, 1997, who work
13 directly with clients receiving services and who are not licensed
14 or certified as members of their profession; and

15 (10) Meet any other certification requirements developed
16 by the department to further the purposes of the Developmental
17 Disabilities Services Act.

18 Sec. 44. Section 83-1217.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 83-1217.02 Each employee subject to the criminal history
21 record information check requirements of subdivision (9) of section
22 83-1217 and section 83-1217.01 shall file a complete set of his
23 or her legible fingerprints with the department. The department
24 shall transmit such fingerprints to the Nebraska State Patrol
25 which shall transmit a copy of the applicant's fingerprints to the

1 Identification Division of the Federal Bureau of Investigation for
2 a national criminal history record information check.

3 The national criminal history record information
4 check shall include information concerning the employee from
5 federal repositories of such information and repositories of
6 such information in other states if authorized by federal law.
7 The division shall issue a report containing the results of
8 the national criminal history record information check to the
9 department.

10 The Nebraska State Patrol shall undertake a search
11 for Nebraska criminal history record information concerning the
12 employee. The Nebraska State Patrol shall issue a report to the
13 department which contains the results of the criminal history
14 record information check conducted by the Nebraska State Patrol.

15 The department shall issue copies of the reports ~~to the~~
16 ~~employee and~~ to the employer listed by the employee.

17 Criminal history record information subject to federal
18 confidentiality requirements shall remain confidential and may be
19 released only upon the written authorization by the employee.

20 The department, in cooperation with the Nebraska State
21 Patrol, shall adopt and promulgate rules and regulations to carry
22 out this section. Such rules and regulations shall provide that the
23 decision to initiate, continue, or terminate the employment of the
24 employee is and shall remain that of the employer.

25 Sec. 45. Section 85-2104, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 85-2104 A student who is applying to take one or more
3 courses for credit from a qualified postsecondary educational
4 institution is eligible for the Access College Early Scholarship
5 Program if:

6 (1) Such student or the student's parent or legal
7 guardian is eligible to receive:

8 (a) Supplemental Security Income;

9 (b) ~~Feed stamps,~~ Supplemental Nutrition Assistance
10 Program benefits;

11 (c) Free or reduced-price lunches under United States
12 Department of Agriculture child nutrition programs;

13 (d) Aid to families with dependent children; or

14 (e) Assistance under the Special Supplemental Nutrition
15 Program for Women, Infants, and Children; or

16 (2) The student or the student's parent or legal guardian
17 has experienced an extreme hardship.

18 Sec. 46. (1) Prescription drugs or devices which have
19 been dispensed pursuant to a valid prescription and delivered
20 to a Department of Correctional Services facility, a criminal
21 detention facility, a juvenile detention facility, or a jail for
22 administration to a prisoner or detainee held at such facility or
23 jail, but which are not administered to such prisoner or detainee,
24 may be returned to the dispensing pharmacy under contract with
25 the facility or jail for credit or for relabeling and redispensing

1 and administration to another prisoner or detainee held at such
2 facility or jail pursuant to a valid prescription as provided in
3 this section.

4 (2) (a) The decision to accept return of a dispensed
5 prescription drug or device for credit or for relabeling and
6 redispensing rests solely with the pharmacist at the contracting
7 pharmacy.

8 (b) A dispensed prescription drug or device shall be
9 properly stored and in the control of the facility or jail at all
10 times prior to the return of the drug or device for credit or for
11 relabeling and redispensing. The drug or device shall be returned
12 in the original and unopened labeled container dispensed by the
13 pharmacist with the tamper-evident seal intact, and the container
14 shall bear the expiration date or calculated expiration date and
15 lot number of the drug or device.

16 (c) A prescription drug or device shall not be returned
17 or relabeled and redispensed under this section if the drug
18 or device is a controlled substance or if the relabeling and
19 redispensing is otherwise prohibited by law.

20 (3) For purposes of this section:

21 (a) Administration has the definition found in section
22 38-2807;

23 (b) Calculated expiration date has the definition found
24 in subdivision (3) (a) of section 71-2421;

25 (c) Criminal detention facility has the definition found

1 in section 83-4,125;

2 (d) Department of Correctional Services facility has the
3 definition of facility found in section 83-170;

4 (e) Dispense or dispensing has the definition found in
5 section 38-2817;

6 (f) Jail has the definition found in section 47-117;

7 (g) Juvenile detention facility has the definition found
8 in section 83-4,125;

9 (h) Prescription has the definition found in section
10 38-2840; and

11 (i) Prescription drug or device has the definition found
12 in section 38-2841.

13 (4) The Jail Standards Board, in consultation with
14 the Board of Pharmacy, shall adopt and promulgate rules and
15 regulations relating to the return of dispensed prescription drugs
16 or devices for credit, relabeling, or redispensing under this
17 section, including, but not limited to, rules and regulations
18 relating to (a) education and training of persons authorized
19 to administer the prescription drug or device to a prisoner or
20 detainee, (b) the proper storage and protection of the drug or
21 device consistent with the directions contained on the label or
22 written drug information provided by the pharmacist for the drug or
23 device, (c) limits on quantity to be dispensed, (d) transferability
24 of drugs or devices for prisoners or detainees between facilities,
25 (e) container requirements, (f) establishment of a drug formulary,

1 and (g) fees for the dispensing pharmacy to accept the returned
2 drug or device.

3 (5) Any person or entity which exercises reasonable care
4 in accepting, distributing, or dispensing prescription drugs or
5 devices under this section or rules and regulations adopted and
6 promulgated under this section shall be immune from civil or
7 criminal liability or professional disciplinary action of any kind
8 for any injury, death, or loss to person or property relating to
9 such activities.

10 Sec. 47. Sections 18, 19, 20, 21, 22, 23, 33, 39, 43,
11 47, 48, and 55 of this act become operative on their effective
12 date. Sections 5, 6, 7, 8, 10, 12, 13, 14, and 50 of this act
13 become operative on September 30, 2009. Sections 9 and 51 of this
14 act become operative on October 1, 2009. Sections 16, 36, and 52
15 of this act become operative on January 1, 2010. Sections 4 and
16 53 of this act become operative on October 1, 2010. The other
17 sections of this act become operative three calendar months after
18 the adjournment of this legislative session.

19 Sec. 48. Original sections 71-531, 81-3119, and 83-1217,
20 Reissue Revised Statutes of Nebraska, and sections 68-901, 68-906,
21 68-908, 68-934, and 68-940, Revised Statutes Cumulative Supplement,
22 2008, are repealed.

23 Sec. 49. Original sections 32-310, 38-2893, 38-2894,
24 43-512.15, 68-1017.01, 81-2270, 81-2271, 83-1209, 83-1211, 83-1213,
25 83-1217.02, and 85-2104, Reissue Revised Statutes of Nebraska,

1 and sections 48-647, 68-717, 68-948, 68-1016, 68-1017, 68-1017.02,
2 68-1070, 68-1713, 71-401, 71-604.05, and 71-5309, Revised Statutes
3 Cumulative Supplement, 2008, are repealed.

4 Sec. 50. Original sections 42-364, 42-369, 43-512,
5 43-512.03, 43-512.12, 43-512.16, and 43-512.17, Reissue Revised
6 Statutes of Nebraska, and section 44-3,144, Revised Statutes
7 Cumulative Supplement, 2008, are repealed.

8 Sec. 51. Original section 43-512.07, Reissue Revised
9 Statutes of Nebraska, is repealed.

10 Sec. 52. Original sections 48-2302 and 77-27,166, Reissue
11 Revised Statutes of Nebraska, are repealed.

12 Sec. 53. Original section 42-358.02, Reissue Revised
13 Statutes of Nebraska, is repealed.

14 Sec. 54. The following sections are outright repealed:
15 Sections 71-2049, 81-2265, and 81-2267, Reissue Revised Statutes of
16 Nebraska.

17 Sec. 55. Since an emergency exists, this act takes effect
18 when passed and approved according to law.